IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.17761 of 1999

Between:

1 M.Saibaba Bhaskara Koteswara Rao, S/o Late Venkateswara Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
2 B. Hema Chalapathi Rao, S/o Late Vijayandranath Banerjee,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
3 N. Subba rao, S/o Appaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
4 A. Veera Raghavaiah, S/o A. Satyanarayana,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
5 A. Krishna Rao, S/o Late A. Subba Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
6 S. Moulaiah, S/o Late Ranga Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
7 P. Koteswara Rao, S/o Bapaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
8 A. Nageswara Rao, S/o Bhanuprasada Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
9 G. Koteswara Rao, S/o bapaaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
10 K. Venkata Ratnam, S/o sooraiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
11 K. Kutumba Rao, S./o Basavaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,

Yeldurthy Mandal, Medak dist.

12 A.siva Rao, S/o Subba Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

13 Y. Krishna Murthy, S/o subbaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

14 A. Venkateswara Rao, S/o Late Bhanuprasada Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

15 A. Ajay Babu, S/o Late Bhanuprasada Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

16 Smt. A. Jypthi, w/o A. Pratap Kumar,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

17 B. Richi Kumar, S/o B. Satyanarayana,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

18 Smt. Y. Lakshmi Paripurna, W/o Suryanarayana,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

19 Smt. M. Bharathi, W/o M. Umamaheswara rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

20 Smt. N. Jhansi Lakshmi, W/o N. Subba Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

21 Smt. S. Bhavani, W/o LAte S. Gopalakrishna
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

22 Smt. G. Krishna Kumari, w/o G.V.R.V. Prasad,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

23 Smt. P. Nagamani, W/o P. Nageswara Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

24 Smt. K. Savithramma, W/o Nagabhushnam,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

25 Smt. K. Lakshmi, W/o Late Narayana Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

26 K. Venkateswara Rao, S/o Late Nagabushanam,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

27 K. Seetharama Rao, S/o LAte Nagabushanam,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

28 Smt. P. Radhamma, W/o Late Veerabhadra Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

29 P. Ramesh Babu, S/o LAte Veerabhadra rao,

R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

30 S.K. Vara Prasad, s/o Late Venkata subbaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

31 S.K. Prasad, S/o Late Venkata Subbaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

32 S. Saibabu, s/o Lae Venkata Subbaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

33 S.H. Babu, S/o Late Venkata Subbaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

34 Smt. V.Sridevi, W/o Jawahar,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

35 S.Subba Rao, S/o ALte Govindaramaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

36 S. Kakuleswara Rao, s/o LateGovindramaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

37 S. Sambasiva Rao, S/o Late Giovindaramaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

38 Smt. B. Saraswathamma,, W/o LAte B. Kurma Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

39 B. bhupathi Koteswara Rao, S/o b. Kurma rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

40 B. Netaji Subhash Chandra Bose, S/o LAte B. Kurma Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

41 B. Sivaramaprasada Rao, S/o Late B. Kurma Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

42 B. Narasimha Rao, S/o Late B. Kurma Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

43 B. Venkateswara Rao, S/o Late B. Kurma Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

44 B. Raja Rao, S/o Late B. Kurma Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

45 S. Koteswaramma, w/oLate Ss.V. Ramanaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

46 S.Hema Chalapathi Rao, S/o LAte S.V. Ramanaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

47 S. Butchi Ramaiah, S/o Late S.V. Ramanaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
48 Smt. B. Seshamma, w/o Late Gopala Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
49 B.shankara rao, S/o Late Gopala rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
50 B.Rama Koteswara Rao, s/o Late Gopala rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
51 B. Rama Rao, s/o Late Gopala Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
52 S. Rama Rao, S/o Veera Raghavaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
53 S. Raja rao, S/o Veera Raghavaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
54 Smt. B. Pushpavathamma, W/o Late B. Venkateswara rao
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
55 B.V. Chiranjeevi, s/o Late B. Venkateswara Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
56 B.V. Harinath Babu, S/o ALte B. Venkateswara Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
57 Polavarapu Nageswara rao, S/o Late P. Venkata Ratnam,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
58 Mandava Umamaheshwara rao, S/o Late M. Venkateswara Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
59 Surapaneni Bhaskara rao, S/o Late S. Govinda Ramaiah,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
60 Kolli Bhaskara Rao, S/o Kutumba Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
61 Boppudi Kutumba Rao, S/o Kutumba Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.
62 Kolli Prasad, S/o Late Venkateswara Rao,
R/o Gopalakrishnapuram village, Hamlet of Hakeempet,
Yeldurthy Mandal, Medak dist.

...PETITIONERS

AND

1. State of A.P. Rep by Land Acquisition Officer/ Revenue Divisional Officer, Medak Division, Medak Dist.

2. The District Collector, Medak District, Sanga Reddy.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction preferably in the nature of writ of Mandamus directing the 1st & 2nd respondents to refer the application of the petitioners dated 18-10-86 filed under section 18 of the Land Acquisition Act, 1894 within time for enhancement of the compensation, to the competent Civil Court, for the petitioners' lands acquired in pursuance of Land Acquisition Notification in A.P. Gazette Part-I dated 1-8-85, published in pages 32 to 37 as mentioned in form No.8 dated 20.8.1986.

Counsel for the Petitioners: MR.C.R.PRATAP REDDY

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

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ORDER:

The sixty two petitioners are residents of Gopalakrishnapuram, H/o.Hakeempet of Yeldurthy Mandal in Medak District. Aggrieved by the endorsement, dated

26.02.1999, they invoked the jurisdiction of this Court under Article 226 of the Constitution of India, seeking a direction to the respondents to refer the award, dated 20.08.1986 passed by the Land Acquisition Officer in the Civil Court for enhancement of compensation. Be it noted, by impugned endorsement, the application made by the petitioners was rejected by the Revenue Divisional Officer, the first respondent herein on the ground that the petitioners have not raised any protest at the time of taking compensation.

In the counter-affidavit filed by the first respondent, the allegation that the petitioners made an application on 18.10.1986 requesting to refer the matter to Civil Court is denied. Therefore, the learned Assistant Government Pleader for Land Acquisition was directed to produce the relevant file as in a subsequent communication of the first respondent to the second respondent, a reference was made to the application made by the petitioners on 18.10.1986. Today the file is produced. A perusal of the same would show that the petitioners made a joint application on 18.10.1986 which is found at page Nos.765 to 768. The next question is whether the request of the land oustees for reference under Section 18 of the Land Acquisition Act, 1894 can be rejected on the ground that the protest immediately was not allowed is no more *res integra*. A Full Bench of this Court to which I was a member considered this question in ***District Collector, Kakinada v. P.Nagabhushana Rao (FB)*** and held as under.

In the view we have taken, we answer the reference holding that in the absence of any manner of protest having been specified in the Act and the time when protest is to be lodged, act of filing of an application seeking reference to Civil Court within the period of limitation prescribed under Section 18 of the Act will impliedly infer that the claimant/person interested had accepted the amount with protest. Not expressly lodging protest at the time of receiving amount in such circumstance would not amount to waiver of the right to seek reference under Section 18 of the Act.

Following the decision of the Full Bench, this Court holds that the impugned endorsement is unsustainable in law. A direction shall issue to the first respondent to refer to the award to the Civil Court within a period of three weeks from the date of receipt of a copy of this order. As and when such reference is made, the concerned Civil Court shall dispose of the reference within a period of six months from the date of reference.

The Writ Petition, with the above observations and directions, is disposed of. There shall be no order as to costs.

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(V.V.S.RAO, J)

15th September 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Land Acquisition Officer/ Revenue Divisional Officer, State of A.P., Medak Division, Medak Dist.
2. The District Collector, Medak District, Sanga Reddy.
3. Two CCs to G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.